


Memorandum

To : Bay Delta Advisory Council  
Work Group Chairs  
CALFED Bay-Delta Program Team

Date : July 10, 1996

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Subject : Operating Procedures for BDAC Work Groups

During the initial alternative development and review process, the CALFED agencies, stakeholders, members of the public and Bay Delta Advisory Council members identified several major issues key to the conceptual development of many of the alternatives. Addressing these critical issues is essential to developing and effectively evaluating the alternatives. In addition, the Phase I process of the CALFED Bay-Delta Program identified a number of critical issues that must be resolved in order to assure implementation of solutions to the Bay-Delta problems.

BDAC Work Groups were established in order to gather information, analyze issues, and report their findings back to BDAC. These Work Groups may conduct research, analyze relevant issues and facts, develop alternative policy options for deliberation by BDAC, and any other activities necessary for fact-finding and analysis. Agency and CALFED Bay-Delta Program staff assist the groups by providing technical, policy and operating information.

Following is a short summary of the membership, participation and operating procedures that were described in an April 5, 1996 memo from Lester Snow to BDAC. In addition, I've included a brief summary of open meeting act specifications for conducting meetings for BDAC Work Groups. Attached is a California Attorney General's Office guidebook to the Open Meeting Laws dated 1989, as well as a 1995 update to that guidebook. Please refer to the 1995 supplement to determine the most recent modifications to the laws.

**MEMBERSHIP AND PARTICIPATION**

The working groups consist of 4 to 6 BDAC members providing a balanced representation of the full BDAC. The BDAC Chair appoints a BDAC member to chair each work group.

A specified CALFED Bay-Delta Program staff member will serve as coordinator for each working group. The staff coordinator will work with the Work Group chair to conduct meetings. In addition, the working group will invite participation from stakeholders and CALFED agency staff. These participants may change depending on the issues and subjects being discussed. Working Group members and invited participants will total approximately 15 persons in order to preserve the small working group environment.

All BDAC members are welcome to attend any or all of the BDAC Work Groups whether they are appointed members or not. All meetings will be open to the public.

#### **PROPOSED MEETING AND OPERATING PROCEDURES**

1. Meetings will be called by the BDAC Work Group chair and the CALFED Bay-Delta Program staff coordinator. Agendas will be approved by the CALFED Bay-Delta Executive Director and the BDAC Chair person. All meetings must be organized through the CALFED Bay-Delta Program to ensure compliance with the State Open Meeting Act and Federal Advisory Committee Act.
2. Meetings will be publicly noticed 10 days before the meeting. The notice will be sent to a BDAC mailing list maintained by the CALFED Bay-Delta Program, and to any other entity or individual interested in receiving notice of the meetings. Written notice will include time, date, location and agenda for the meeting.
3. The CALFED Bay-Delta Program staff coordinator will ensure that a written meeting summary is prepared for each meeting and distributed to the members of the BDAC Work Group, all other BDAC members, and others who specifically request it.
4. Conduct of all meetings will comply with the State Open Meeting Act and the Federal Advisory Committee Act.
5. In compliance with the Federal Advisory Committee Act, all decisions or actions must be submitted for deliberation to the full BDAC.

#### **OPEN MEETING ACT REQUIREMENTS**

This is a summary of some of the relevant provisions of the Bagley-Keene Open Meeting Act (Cal.Gov. Code §11120, et seq.). For more detailed information, refer to the attached guidebook, or contact me.

##### **I. Purpose and Scope**

The purpose of the open meeting law is to require that all

aspects of the decision-making process by a multi-member state body be conducted in public. Open meeting laws represent the Legislature's determination that the balance between public access to the activities of a public body and the need for secret, candor, debate, and information gathering has been struck in favor of public access.

This law has been interpreted to mean that all of the deliberative processes by multi-member bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny. Unless a specific statutory or court-made exception authorizing a closed session can be found, the matter must be conducted in public regardless of its sensitivity. Courts have traditionally interpreted the limited exceptions for closed sessions very narrowly. At the same time, courts liberally interpreted the provisions of the act related to openness and public access.

## **II. Notice and Agenda Requirements**

### **A. Meetings Requiring 10 Day Notice**

The Act requires written notice of the time, date, location and agenda for meetings to be sent at least 10 days prior to the meeting to all who request information. (§11125.) The specific agenda must provide a description of each item of business to be transacted or discussed so that interested members of the public will be capable of understanding the nature of each item. (67 Ops.Cal.Atty.Gen. 84 (1984).) As a general rule, an item not appearing on the agenda may not be discussed or voted upon. However, when an item is raised by a member of the public, the body may accept testimony and discuss the item so long as no action is taken until a subsequent meeting. (§11125(a).)

### **B. Meetings Not Requiring 10 Day Notice**

The Act allows for emergency meeting sunder specified conditions. (§11125.5.) Emergencies are defined very narrowly. None would probably apply to the work groups. Unless a situation qualifies as an enumerated emergency, the standard 10-day notice and agenda requirements must be followed.

## **III. The Public's Rights While Attending Meetings**

A member of the public may attend a meeting of the work groups without having to register or give other information as a condition of attendance. (§11124.) Any sign in sheet must clearly state that completion of the document is voluntary. A member of the public may tape record a meeting. A member of the public may be excluded from a meeting if he or she is

clearly disruptive. If all of the public is excluded from a meeting for disruption, members of the media not involved in the disturbance must be permitted to attend the meeting as continued. (§11126.5.)

A member of the public has the right to directly address the work group on each agenda item before or during the discussion or consideration of the item. (§11125.7.) BDAC may adopt reasonable regulations to ensure the purpose of this section is carried out, including regulating the total amount of time allocated for public comment on particular issues and for each individual speaker.

There are specific instances where a portion of a meeting may be closed to the public in order for the a state body to discuss specific issues. None of the enumerated bases for closed meetings would probably apply to the work groups. (§11126.)

#### **IV. Penalties and Remedies for Violation of the Act**

Criminal penalties, civil injunctive relief and the award of attorney's fees are provided to assist enforcement of the Act. In addition, most actions taken in violation of the Act may be declared null and void by a court. (§§11130, 11130.3.)

cc w/attach: Madigan  
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